UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/CONF.151/PC/WG.III/4
23 August 1991

Original: ENGLISH

PREPARATORY COMMITTEE FOR THE UNITED NATIONS
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
Geneva, 12 August-4 September 1991
Working Group III
Agenda item 4

PRINCIPLES ON GENERAL RIGHTS AND OBLIGATIONS

Letter dated 21 August 1991 from the Head of the delegation of Iceland to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session addressed to the Secretary-General of the United Nations Conference on Environment and Development

I have the honour to enclose herewith a Draft Covenant on Environmental Conservation and Sustainable Use of Natural Resources, developed by the Commission on Environmental Law of the World Conservation Union (IUNC).

I should be most grateful if you could arrange for this document to be distributed in all the working languages during the third session of the Preparatory Committee.

Accept, Sir, the assurances of my highest consideration.

(Signed): Gunnar G. Schram

Head of the Icelandic Delegation
to the Preparatory Committee for
the United Nations Conference on
Environment and Development

GE.91-72051/1299H

ANNEX

DRAFT 4

COVENANT ON ENVIRONMENTAL CONSERVATION AND SUSTAINABLE USE OF NATURAL RESOURCES

IUCN - Commission on Environmental Law

The World Conservation Union
l'Union mondiale pour la nature

April 1991

This fourth draft of the Covenant on Environmental Conservation and Sustainable Use of Natural Resources has been prepared by an ad hoc Working Group under the aegis of the IUCN Commission on Environmental Law.

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Members of the Working Group did not participate on behalf of any government or organisation, but in their personal capacities, thus the ideas and concepts reflected in the draft Articles do not necessarily reflect the views of the States from which the Working Group members come. Not all members of the Working Group participated in every stage of the preparation process, thus the views embodied in the Articles are not those subscribed to by every individual member.

PREFATORY NOTE

The Draft Covenant on Environmental Conservation and Sustainable Use of Natural Resources is an undertaking of an ad hoc Working Group under the aegis of the IUCN Commission on Environmental Law.

In the past few years, several fora, including the UN World Commission on Environment and Development pointed out the need for such a global environmental legal instrument. The IUCN General Assembly mandated its Commission on Environmental Law to work on the Covenant in 1988. Using the expertise of those members who had drafted the World Charter for Nature, an instrument which was solemnly adopted and proclaimed by the United Nations General Assembly in 1982, the Commission created an ad hoc Working Group which decided to call the instrument "Covenant" in order to parallel the process followed in the United Nations with regard to human rights.

The first full meeting of the ad hoc Working Group took place in Bonn on 29 - 30 November 1989 under the Chairmanship of Dr. Wolfgang Burhenne. Several drafting sessions followed, while the original group was expanded and participants sent in comments which were then incorporated.

The second full meeting of the ad hoc Working Group, expanded to include members of the former Legal Experts Group of the World Commission on Environment and Development, took place in Bonn on 14 - 16 March 1991 under the Chairmanship of Dr. Parvez Hassan who became Chairman of the IUCN Commission on Environmental Law in December 1990. The expansion of the Group was made possible due to the assistance of the Government of The Netherlands. The meeting resulted in a fourth draft Covenant which is being circulated at the United Nations Conference on Environment and Development Preparatory Committee meeting in August 1991 in order to gain the comments of a broader circle of experts.

The current fourth draft is still to be considered a preliminary version; the Covenant project is planned as a long-term drafting process. The content of the draft has mainly been developed by the members of the Working Group, but it also reflects some outside proposals, such as drafts tabled in other fora as well as an extensive proposal from Mr. Vranitsky, the Chancellor of Austria.

A Commentary will be written to accompany the Covenant which will not only explain the proposed text, but will discuss those fundamental modifications which international environmental law will have to incorporate in order to more adequately respond to future environmental challenges in relationship to sustainable development issues, but have yet to be considered at governmental level.

Comments may be sent to: Commission on Environmental Law c/o IUCN Environmental Law Centre, Adenauerallee 214, D-5300 Bonn 1, Germany. Fax: 49/228-2692-250. Tel: 49/228-2692-

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DRAFT COVENANT ON ENVIRONMENTAL CONSERVATION AND SUSTAINABLE USE OF NATURAL RESOURCES

Preamble

The States Parties to this Covenant:

MINDFUL of the obligations accepted by States for the conservation of the environment and sustainable use of natural resources;

AWARE of the deteriorating situation of the environment and natural resources;

CONSCIOUS that present generations hold the global environment and natural resources in trust for future generations;

CONVINCED of the need to manage the environment and natural resources in a comprehensive manner that reflects an integrated approach to conservation and development, takes account of social, economic and ecological factors, ensures sustainable use of renewable resources and avoids waste and overexploitation of non-renewable resources.

RECOGNISING that deterioration of the environment threatens the rights of States and Peoples to development that is sustainable and may endanger international peace and security;

FIRMLY CONVINCED of the need for measures of universal application to conserve the Earth's environment;

HAVE AGREED as follows:

PART I

INTRODUCTION

ARTICLE 1

USE OF TERMS

For the purposes of this Covenant:

(a) "accident" means any pollution as a consequence of a departure, due to human behaviour or a natural disaster, from normally permissible operating conditions of an activity;

(b) "commercial activity of foreign origin" means the activities , substances or technology that are exported or any form of foreign instrument whether through licenses, joint ventures, subsidiaries or other transnational commercial activity;

[(c) "conservation" means to manage renewable natural resources sustainably, and to avoid waste of non-renewable natural resources;]

(d) "damage" means:

(i) any loss of life, impairment of health or amenities or any personal injury;

(ii) any loss or damage to property or impairment of rights;

(iii) detrimental changes in ecosystems and natural resources, including:

(1) the equivalent costs of practicable measures of reinstatement actually undertaken or to be undertaken;

(2) replacement, *inter alia*, of habitats and species of particular conservation concern if practicable measures cannot be undertaken;

(iv) any loss of profit; and

(v) cost of reasonable measures of prevention to minimize harm resulting from the incident;

(e) "environment" means the totality of nature and natural resources, including the cultural heritage and human infrastructure essential for socio-economic activities;

(f) "host country" means the country to which a commercial activity of foreign origin is, or is proposed to be, exported or in which it is, or may be, carried on;

(g) "international organisations" mean global, regional and subregional organisations;

(h) "natural resources" means those components of nature which are or can be used to satisfy the needs of human beings and other living species;

(i) "nature" means the Earth's geosphere and biosphere and associated processes;

(j) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the environment which results or is likely to result in such deleterious effects as significant harm to living resources, hazards to human health, hindrance to human activities, impairment of living and non-living resources, and reduction of amenities; "pollutants" shall be construed accordingly;

[(k) "preservation" means to set aside and protect selected natural resources, such as unique biological or geological formations, endangered or threatened species, representative biomes, or other natural and cultural sites of importance, so as to maintain their natural characteristics in a manner unaffected by human activities to the fullest extent possible;]

(l) "risk" means the combined effect of the probability of occurrence of an undesired event and its magnitude;

(m) "species" means any species of living organism and includes any defined subspecies or recognisable variant of any such species; and

(n) "sustainable use" of renewable natural resources means a use which maintains and enhances the renewable natural resource base in a manner which meets the needs of the present generation without compromising the ability of future generations to meet their own needs from the same resource base.

PART II

FUNDAMENTAL PRINCIPLES

ARTICLE 2

INDIVIDUAL RIGHTS AND DUTIES

1. All persons have the fundamental right to an environment adequate for their dignity, health and well-being.

2. All persons have a duty to protect and conserve the environment for the benefit of present and future generations.

3. In discharging their obligations under this Article, States shall take all practicable measures, by legislation or otherwise, as are necessary.

ARTICLE 3

GENERAL OBLIGATIONS

1. States have the obligation to protect the environment.

2. States have the obligation to conserve all natural resources and to preserve selected resources.

3. In discharging their obligations under this Article, States shall safeguard the environment as a common concern of humanity and as a fundamental obligation to present and future generations.

ARTICLE 4

OBLIGATION TO CO-OPERATE

States shall co-operate in good faith with other States and international governmental and non-governmental organisations in the implementation and the further development and application of the legal principles set out in this Covenant.

ARTICLE 5

SUSTAINING NATURAL SYSTEMS

States shall:

(a) maintain essential ecological processes and life support systems;

(b) maintain biological diversity by ensuring the survival and promoting the conservation in their natural habitat of species of flora and fauna, in particular those which are rare or threatened with extinction; and

(c) manage living natural resources to achieve and maintain optimum sustainable productivity, while protecting the integrity of the ecosystems.

ARTICLE 6

PREVENTION OF ENVIRONMENTAL HARM

1. States shall take all practicable measures to prevent harm to the environment, and in particular to prohibit activities causing irreversible harm to the environment.

2. Where there is scientific uncertainty about the consequences for the environment of proposed activities, States shall allow such activities to proceed only subject to such precautionary requirements as are appropriate.

3. Where the environmental impact of an activity cannot be prevented, States shall limit and reduce adverse effects by minimizing risks and avoiding side effects.

ARTICLE 7

REHABILITATION OF NATURAL SYSTEMS

States shall take measures to rehabilitate and to restore, to the extent practicable, ecosystems and related ecological processes which have been degraded or destroyed.

ARTICLE 8

DUTY NOT TO TRANSFER OR TRANSFORM ENVIRONMENTAL HARM

In taking measures to prevent environmental harm and to rehabilitate natural systems, States shall take the precautions necessary to ensure that harm or the threat thereof is not transferred directly or indirectly from one geographical area to another and that one type of harm is not transformed into another type.

ARTICLE 9

MILITARY AND HOSTILE ACTIVITIES

1. States shall not engage in military activities resulting in widespread, long-lasting or severe damage to the environment.

2. States shall not engage in any military or other hostile use of the environment as a direct means of destruction of or damage or injury to the environment.

3. States shall take special measures to protect resources, sites and installations from acts of

terrorism or sabotage which may result in damage to the environment.

4. States whose military activities contravene the provisions of paragraphs 1 and 2 shall be held responsible for the subsequent environmental restoration.

5. States shall avoid or minimize, as far as possible, all military activities harmful to the environment when not engaged in armed conflict.

ARTICLE 10

PUBLIC INFORMATION AND PARTICIPATION

States shall provide for and promote widespread participation by individuals and non-governmental organisations in all aspects of conserving the environment. In particular, States shall:

(a) provide for adequate publicly available information relevant to the environment;

(b) afford the opportunity to participate, individually or with others, in the decision-making process; and

(c) ensure access to means of prevention of and redress for environmental damage.

ARTICLE 11

INVESTMENT AND TRADE IN NATURAL RESOURCES

States shall co-operate to ensure that trade and investment in raw materials, including the prices of commodities, do not prejudice the sustainable use of renewable natural resources or the conservation of non-renewable resources.

PART III

IMPLEMENTATION

ARTICLE 12

INTEGRATING ENVIRONMENT AND DEVELOPMENT

With a view to ensuring sustainable development, States shall ensure that environmental conservation is treated as an integral part of the planning and implementation of development activities at all stages and at all levels; in particular, States shall, in the formulation of development plans, give as full a consideration to ecological and environmental factors as to economic and social factors.

ARTICLE 13

ALLOCATION OF ENVIRONMENTAL COSTS

States shall take such necessary measures to ensure that the costs of prevention or restoration of environmental damage, as well as compensation, shall be borne by the person whose activities give rise to such damage or the threat thereof, unless such obligation is otherwise allocated by national or international law.

ARTICLE 14

ENVIRONMENTAL INFORMATION

States shall:

(a) collect and disseminate to the public data and information on the environment and the use of natural resources; and

(b) require that all persons be notified in a timely manner of activities which may significantly affect their environment.

ARTICLE 15

ENVIRONMENTAL STANDARDS & CONTROLS

States shall establish, strengthen and enforce specific standards, including product, process, emission and quality standards, designed to prevent or abate harm to or interference with the environment or to improve environmental quality.

ARTICLE 16

ENVIRONMENTAL IMPACT ASSESSMENT

1. States shall not engage in or authorise activities which may have adverse effects on the environment, including cumulative effects, without prior consideration of those effects, together with possible alternatives to the proposed activities or other measures to avert or minimize any such adverse effects.

2. States shall establish procedures for carrying out environmental impact assessments, including provisions for public participation and public reporting of the results.

3. States shall ensure that monitoring is conducted to evaluate whether the activities are complied with as specified in the decisions made on the basis of an environmental impact assessment, and that corrective measures shall be taken where necessary.

ARTICLE 17

MONITORING OF ENVIRONMENTAL QUALITY

States shall establish, strengthen and implement monitoring programmes, *inter alia*, to determine:

(a) the condition of each environmental medium;

(b) the cumulative or synergistic effects on the environment as a whole;

(c) the cumulative or synergistic effects of particular substances or activities on the environment;

(d) the effects on the environment of particular sectors of the economy; and

(e) the status, or changes in the status, of natural resources.

ARTICLE 18

EDUCATION

1. States shall promote the dissemination of environmental knowledge by providing information and the opportunity for training and education, in particular ecological education, as an integral part of all levels of education.

2. States shall co-operate and, in particular, assist developing countries in the training of environmental specialists.

PART IV

OBLIGATIONS CONCERNING SPECIFIC RESOURCES

ARTICLE 19

LAND-USE ALLOCATION

1. States shall plan the allocation of all areas of land and water surfaces to various uses, taking due account of their physical constraints, as well as of their biological productivity and diversity. Any significant departure from the plan shall be subject to prior authorisation.

2. States shall base all land use allocation upon the establishment of inventories of ecosystems and assessment of the effects on the environment of proposed policies and activities.

ARTICLE 20

CONSERVATION OF BIOLOGICAL DIVERSITY

States shall ensure the protection, preservation and conservation of biological diversity, at the genetic, species and ecosystem levels, and shall take all necessary measures to that end, both *in situ* and, where appropriate, *ex situ*.

ARTICLE 21

CONSERVATION OF WILD LIVING RESOURCES

1. In order to maintain maximum biological diversity, States shall take all necessary measures to protect, preserve and conserve animal and plant species and their habitats, with priority given to rare and endangered species and their habitats.

2. In discharging their obligations under this Article, States shall:

   (a) create and maintain specially protected areas with a view to, *inter alia*, conserving genetic resources *in situ*;

   (b) regulate the taking of species and prohibit unselective taking methods;

   (c) regulate and, where necessary, prohibit the introduction of alien species; and

   (d) promote and establish gene banks and other documented collections of animal and plant genetic resources.

3. States shall, in giving priority to rare, endangered and endemic species, *inter alia*:

   (a) prohibit the taking of the species, except in exceptional circumstances by special

authorisation;

(b) regulate the trade in and possession of specimens and products of the species accordingly;

(c) especially protect the habitat of the species, *inter alia*, by ensuring that sufficient portions are included in specially protected areas; and

(d) take all other necessary measures to improve their conservation status, and restore their populations to the highest possible level.

ARTICLE 22

SUSTAINABLE USE OF WILD LIVING RESOURCES

1. States shall ensure that any use of wild living resources is sustainable.

2. In discharging their obligations under this Article, States shall:

(a) develop, adopt and implement management plans based on scientific studies with a view to:

(i) preventing decrease in the size of any harvested population to levels below those which ensure its stable recruitment and the stable recruitment of those species which are dependent upon, or related to them;

(ii) maintaining the ecological relationship between harvested, dependent and related populations within the ecosystem;

(iii) restoring depleted populations to at least the levels referred to in sub-paragraph (a) of this paragraph; and

(iv) preventing changes or minimizing risk of changes in the ecosystem which are not reversible over a reasonable period of time; and

(b) when harvesting, take all necessary measures in order that:

(i) harvesting conforms to the management plans referred to in paragraph 1 of this Article;

(ii) harvesting is controlled by a permit system;

(iii) all indiscriminate means of taking and the use of all means capable of causing local extinction of, or serious disturbance to, populations of a species or related species are prohibited;

(iv) harvesting is prohibited or strictly regulated at those periods, seasons or places which are important in the life cycle of the species;

(v) harvesting may be regulated more strictly, temporarily or locally in order to assist restoration of population levels or counterbalance any threat caused by special circumstances;

(vi) special measures, such as restocking, are provided for whenever the conservation status of a species so warrants; and (vii) trade and possession of specimens or products of specimens are regulated whenever such regulations meaningfully contribute to the implementation of the harvesting regulations.

ARTICLE 23

VEGETATION COVER

1. States shall, *inter alia*, protect, preserve, conserve, and when necessary restore, vegetation cover, including, forests, wetlands and other natural systems.

2. In discharging their obligations under this Article, States shall:

   (a) control clearance of vegetation, including by burning or fire and drainage of wetlands; prevent overgrazing, *inter alia*, by limiting grazing activities to periods and intensities that will permit regeneration of the vegetation;

   (b) regulate mining and mineral exploration operations with a view to minimizing disturbance of vegetation and to requiring the rehabilitation of vegetation after such operation; and

   (c) avoid, as far as possible, monoculture on a scale or in a manner likely to cause ecological imbalances.

ARTICLE 24

SOIL CONSERVATION

1. States shall conserve, and when necessary restore, soils for all living systems.

2. In discharging their obligations under this Article, States shall:

   (a) take all necessary measures to prevent soil erosion and other forms of degradation, and promote measures which safeguard the processes of organic decomposition and the continuing fertility of the soil;

   (b) establish land use policies aimed at avoiding losses of vegetation cover, substantial soil losses and damage to the structure of the soil;

   (c) take all necessary measures to control erosion, especially as it may affect coastal or freshwater ecosystems, lead to siltation of downstream areas such as lakes or vulnerable ecosystems such as coral reefs, or damage critical habitat, in particular that of rare, endangered or endemic species;

   (d) designate areas whose primary function shall be the maintenance of soil quality in that catchment area and the regulation of the quantity and quality of the water delivered from it; and

   (e) take appropriate measures to rehabilitate eroded or degraded soils including rehabilitation of soil affected by mineral exploitation.

ARTICLE 25

COASTAL AND MARINE RESOURCE PROTECTION

1. States shall protect and, where necessary, restore the marine environment.

2. In discharging their obligations under this Article, States shall:

   (a) protect, preserve, conserve and, where necessary, restore living marine resources and their habitat, in particular, by prohibiting fishing and hunting of endangered species and the utilisation of non-selective methods of catch;

(b) co-operate in the management of living marine resources to ensure sustainability, with regard to the ecosystems of which they are a part;

(c) submit to prior authorisation and monitor all dumping of waste into the sea, as well as activities of exploration and exploitation of the sea-bed and its subsoil;

(d) take all necessary measures to prevent marine pollution by vessels in areas under their jurisdiction, as well as by vessels flying their flag or leaving their ports; and

(e) establish and implement programmes for the prevention or the reduction of the degradation of the marine environment as a result of activities taking place on land.

3. States shall, with a view to sustaining essential natural resources in coastal areas and water dependent coastal land uses:

(a) conserve coastal wetlands;

(b) manage estuaries as an entire ecological system, to maximise sustained yields of estuary resources; and

(c) establish coastal zone plans to guide development.

ARTICLE 26

FRESH WATER RESOURCES MANAGEMENT

1. States shall take all appropriate measures to conserve the freshwater components of the hydrologic cycle, in particular, ground and surface water resources.

2. States shall, in particular:

(a) establish safeguards for the purity of sources of human drinking water and implement them as a high priority;

(b) undertake and promote the necessary hydrological research, especially with a view to ascertaining the characteristics of each watershed;

(c) regulate and control water utilisation with a view to achieving sufficient and continuous supply of water for, *inter alia*, the maintenance of natural life supporting systems and aquatic fauna and flora; and

(d) when planning and carrying out water resource development projects, take fully into account possible effects of such projects on natural processes or on other renewable natural resources and prevent or minimise such effects.

ARTICLE 27

AREAS SUBJECT TO SPECIAL LEGAL REGIMES

1. States shall establish, maintain and manage terrestrial, freshwater, coastal and marine areas which are subject to special legal regimes.

2. In discharging their obligation under this Article, States shall:

(a) establish special regimes in order to safeguard the value of such areas, *inter alia*:

(i) the ecological and biological processes essential to the functioning of the ecosystems;

(ii) representative samples of all types of ecosystems;

(iii) satisfactory population levels for the largest possible number of species of fauna and flora belonging to those ecosystems;

(iv) areas of particular importance because of their scientific, educational, aesthetic, or cultural interest; and taking into account their importance in particular as:

(1) the natural habitat of species of fauna and flora, particularly rare or endangered or endemic species;

(2) zones necessary for the maintenance of exploitable stocks of economically important species;

(3) pools of genetic material and safe refuges for species, especially endangered ones;

(4) sites of ecological, aesthetic or cultural interest;

(5) reference sources for scientific research; and

(6) areas for environmental education;

(b) take all possible measures to preserve those areas which are of an exceptional character and are peculiar to their country or region as well as those which constitute the critical habitats of endangered or rare species, of species that are endemic to a particular area and of species that migrate between States;

(c) ensure that activities within their jurisdiction or control do not harm any such area which they establish or which may be established by another State or by international agreement, to the end that such areas shall be regulated and managed in such a way as to further the purposes for which the area was established;

(d) prohibit any activity in or near such an area which is inconsistent with the purposes for which it was established; and

(e) ensure that for each such area there are provisions to:

(i) prepare a management plan and manage the area on the basis of this plan;

(ii) establish, wherever appropriate, terrestrial or aquatic buffer zones that shall be located around the areas and which, in the case of marine areas, may include coastal land areas or watersheds of rivers flowing into the protected area; in such buffer zones all activities that may have harmful consequences on the ecosystems that such areas purport to protect shall be prohibited or regulated and activities which are consistent with the purpose of such an area shall be promoted;

(iii) prohibit the introduction of alien animal or plant species;

(iv) prohibit the activities or the use or release of substances or pollutants which could prejudice the qualities, for which the area is under a special legal regime; and

(v) to the maximum extent possible, prohibit or control any activity exercised outside such areas when such an activity is likely to prejudice the qualities, for which the area is under a special legal regime.

ARTICLE 28

PROTECTION OF THE ATMOSPHERE

States shall take all practicable measures to prevent, reduce or control any significant change in the physical or chemical condition of the atmosphere resulting directly or indirectly from human activities.

PART V

DUTIES AND OBLIGATIONS TO PREVENT POLLUTION

ARTICLE 29

POLLUTION CONTROL

1. States shall take all practicable measures to ensure that all activity within their jurisdiction or control is strictly regulated to prevent, reduce or control any discharges of pollutants.

2. In discharging their obligations under this Article, States shall:

   (a) establish procedures for eliminating pollution at its source, for minimizing or treating waste and for encouraging the most efficient use of natural resources in manufacturing and industrial processes;

   (b) establish, where possible, procedures for recycling and reuse of all waste materials;

   (c) submit activities likely to cause pollution to controls which shall take into consideration both the cumulative effects of the pollutants and the assimilative capacity of the environment; and

   (d) establish lists of substances that are toxic, persistent or bioaccumulative and subject such substances to special controls.

3. States shall establish programmes for classifying, packaging and labelling all products capable of pollution to advise all persons in contact with the products of the appropriate safety and emergency procedures to avert or contain any pollution incident involving the product.

PART VI

ENVIRONMENTAL EMERGENCIES

ARTICLE 30

OBLIGATION TO RESPOND TO EMERGENCIES

States shall respond to emergencies so as to reduce and prevent all avoidable harm to the environment and repair damage to the fullest extent practicable.

ARTICLE 31

PREVENTION OF ACCIDENTS

1. States shall ensure that safety precautions and contingency plans are established to prevent accidents which may cause environmental harm and to control, contain and eliminate such harm.

2. In discharging their obligations under this Article, States shall:

(a) ensure that adequate emergency control plans are established by all persons, enterprises or others undertaking activities which could lead to release of substances which may cause environmental harm; and

(b) in the case of an emergency situation suddenly causing environmental harm, or a significant risk thereof, ensure that the necessary measures are taken and, where necessary, take action themselves:

(i) to minimize environmental harm or to deal with the harm at source; and

(ii) to warn members of the public and any State whose interests may be affected, as soon as possible, while:

(1) giving them such pertinent information as will enable them to minimize environmental harm;

(2) informing them of the steps taken to abate the cause of the environmental harm; and

(3) co-operating with other interested States and international organisations in order to prevent or minimize the harmful effects of such an emergency situation or other change of circumstances.

ARTICLE 32

ECOLOGICAL DISASTER AREAS

1. States shall designate as ecological disaster areas those territories where catastrophic environmental damage has taken place.

2. States should establish a special regime in ecological disaster areas covering all human activities and shall undertake long-term programmes for the restoration of those areas.

PART VII

INTERNATIONAL CO-OPERATION

ARTICLE 33

DISPOSAL OF WASTE

1. States shall require that, to the extent possible, waste be minimized and disposed of at its source.

2. States shall require that all waste be disposed of in an environmentally sound manner.

3. States shall, under no circumstances, permit the export of waste to other States without prior informed consent of the States concerned.

ARTICLE 34

COMMERCIAL ACTIVITIES OF FOREIGN ORIGIN

1. States shall require of all commercial activities of foreign origin which may have an adverse effect on the environment of the host country, that:

(a) the originator or operator of the activity shall provide a public account of:

(i) the relevant environmental legal requirements and standards applicable in the other States where such companies operate; and

(ii) the state-of-the-art techniques in use to comply with those legal requirements and standards; and

(b) in the absence of express agreement by the host country to the contrary, the relevant standards of the country of origin shall apply.

2. The State of origin shall, either directly or through the competent international organisations, provide the host country with all information on applicable environmental requirements and standards and enter into consultations with a view to enabling the host country to take informed decisions on the administrability of the activity.

ARTICLE 35

COOPERATIVE ACTIVITIES

1. In implementing the obligation to co-operate, States shall:

(a) establish and harmonise international methods of measuring environmental parameters and use comparable or standardised research techniques;

(b) exchange appropriate scientific, technical and legal data, information and experience on a regular basis, in particular concerning the biological status of the natural living resources;

(c) coordinate, to the greatest extent possible, their research activities;

(d) co-operate in the establishment and carrying out of regional and global monitoring programmes;

(e) inform each other on their respective environmental conservation measures and endeavour to coordinate such measures; and

(f) where appropriate, consult and assist each other.

2. States shall make special provisions for affordable access to environmentally sound technology, additional technical assistance and financial resources to and among developing countries for fulfilling obligations set out in the present Covenant and accelerating their transition to sustainable development.

ARTICLE 36

INTERSTATE ENVIRONMENTAL EFFECTS

1. States shall prevent transboundary harm to the environment.

2. In discharging their obligations under this Article, States shall:

(a) have the obligation to prevent activities under their jurisdiction or control from causing cause damage to the environment under the jurisdiction of other States or of areas beyond the limits of national jurisdiction;

(b) take into account the possible detrimental effects, which are or may be caused by their activities, without discrimination as to whether the effects would occur inside or outside

the area under their jurisdiction or control;

(c) notify in advance other States concerned of pertinent details of plans to initiate, or make a change in, activities which can reasonably be expected to have significant effects beyond the limits of national jurisdiction;

(d) make an environmental impact assessment before engaging in any activity that may create a risk or may significantly affect the environment or the natural resources of another State, or the environment or natural resources beyond national jurisdiction;

(e) ensure that other concerned States, non-governmental organisations and individuals in such States, as well as concerned international organisations, may provide comments regarding the proposed activity described in the environmental impact assessment;

(f) enter into consultation concerning the plans mentioned in subparagraph (c) of this Article upon request of the other States in question;

(g) inform other States in question of emergency situations or sudden grave natural events which may have repercussions beyond national jurisdiction; and

(h) in the case of actual or potential transboundary environmental harm originating within their jurisdiction or control, grant persons in other jurisdictions access to, as well as due process and equal treatment in, administrative and judicial proceedings to at least the same extent as is available to parties within their own jurisdiction who have been or may be similarly affected.

ARTICLE 37

SHARED RESOURCES

1. States shall conserve shared natural resources in an equitable manner and, to that effect, enter into negotiations with a view to concluding joint management agreements.

2. States shall avoid, to the maximum extent possible, and reduce, to the minimum extent possible, any adverse environmental effects, in particular, those effects beyond their jurisdiction on shared natural resources when their use:

(a) may cause damage to the environment with repercussions for the utilisation of the resources by another sharing State;

(b) threaten the conservation of shared renewable resources; or

(c) endanger the health or the population of another State.

PART VIII

LIABILITY AND COMPENSATION FOR ENVIRONMENTAL HARM

ARTICLE 38

RESPONSIBILITY AND LIABILITY

1. States shall be responsible for any breach of an obligation under this Covenant or under other rules or principles of international law concerning the environment and the use of natural resources. In particular States shall:

(a) cease the wrongful act;

(b) as far as possible, re-establish the situation which would have existed if the wrongful act had not taken place;

(c) provide compensation for the damage which results from the wrongful act; and

(d) where appropriate, give satisfaction for the wrongful act.

2. States are liable for damage caused by activities which create a significant risk of harm to the environment under the jurisdiction of other States or of areas beyond the limits of national jurisdiction.

3. States have the obligation to ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect to damage caused to the environment by natural or juridical persons under their jurisdiction.

4. States have the obligation to co-operate, with the objective of assuring prompt and adequate compensation in respect of all damage caused to the environment, in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, including compulsory insurance or compensation funds.

PART IX

CONFERENCE

ARTICLE 39

CONFERENCE OF THE PARTIES

1. The Parties shall establish the Conference of the Parties.

2. Not later than two years after the entry into force of the present Covenant, a Conference of the Parties shall be convened. Thereafter the Conference shall hold regular meetings, at least once every two years unless the Conference decides otherwise, and extraordinary meetings at any time upon the written request of at least one third of the Parties.

3. At the meetings provided for in paragraph 2 of this Article, the Conference shall review the implementation of this Covenant. In addition, it may:

(a) consider and adopt Protocols to this Covenant;

(b) consider and adopt amendments to the present Covenant in accordance with Article 44;

(c) receive and consider any reports presented by any Party or by any subsidiary body established by the Conference;

(d) where appropriate, make recommendations for improving the effectiveness of the present Covenant; and

(e) consider and adopt appropriate financial arrangements under this Covenant.

4. At the first meeting, the Conference shall, by consensus, determine and adopt rules of procedure for the meetings of the Conference.

5. The United Nations, its specialised agencies, IUCN-The World Conservation Union, the International Council of Scientific Unions and the International Atomic Energy Agency, as well as any State not a party to this Covenant, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.

6. Any body or agency which has interest and expertise and which has informed the Conference of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one third of the Parties present object.

7. Observers have the right to participate but not to vote.

PART X

DISPUTES

ARTICLE 40

SETTLEMENT OF DISPUTES

1. States shall settle disputes concerning the implementation of this Covenant by peaceful means.

2. States shall seek settlement of such disputes by negotiation, good offices, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to appropriate bodies or arrangements, whether global or regional, or by any other peaceful means.

3. If mutual agreement on a solution or on other dispute settlement arrangements is not reached within 18 months, the Parties shall submit the dispute to arbitration or judicial settlement at the request of any of them.

PART XI

FINAL CLAUSES

ARTICLE 41

RATIFICATION

The present Covenant shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the United Nations.

ARTICLE 42

ENTRY INTO FORCE

This Covenant shall enter into force on the date of deposit of the third instrument of ratification, acceptance or approval.

ARTICLE 43

AMENDMENTS

1. Any State Party may propose amendments to this Covenant. The text of any such proposed amendment shall be submitted to the Depositary who shall transmit it, within six months, to all the States Parties.

2. At the request of one-third of the States Parties for a meeting to discuss the proposed amendment, the Depositary shall call such a meeting.

3. An amendment shall enter into force when the Depositary has received instruments of ratification, approval or acceptance thereof from two-thirds of the States Parties.

ARTICLE 44

DEPOSITARY

1. The Secretary-General of the United Nations shall be the Depositary of this Covenant and amendments thereto.

2. Amongst the functions as Depositary, the Secretary-General shall:

   (a) report to all States Parties, as well as to competent international organisations, on issues of a general nature that have arisen with respect to this Covenant;

   (b) circulate amendments adopted in accordance with this Covenant to States Parties for ratification or accession; and

   (c) convene necessary meetings of States Parties in accordance with this Covenant.